

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Brian Hardingham	Team: Team # 1	CCRB Case #: 200504190	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 04/14/2005 7:00 PM	Location of Incident: The 108th Pct. station house	Precinct: 108	18 Mo. SOL 10/14/2006	EO SOL 10/14/2006	
Date/Time CV Reported Sat, 04/16/2005 12:30 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Sat, 04/16/2005 12:30 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. POM Steven Schmitt	16800	935711	108 PCT
3. POM Kevin Tierney	30692	935847	108 PCT
4. LT Frank Tarantola	00000	905151	108 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Wojciech Braszczok	29443	932357	108 PCT
2. POF Kelly McKenna	25690	927185	108 PCT
3. SGT David Porter	04927	893530	108 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Kevin Tierney	Discourtesy: PO Kevin Tierney spoke obscenely and/or rudely to § 87(2)(b) and § 87(2)(b)	
B.POM Steven Schmitt	Discourtesy: PO Steven Schmitt spoke obscenely and/or rudely to § 87(2)(b)	
C.LT Frank Tarantola	Discourtesy: Lt. Frank Tarantola spoke obscenely and/or rudely to § 87(2)(b)	
D.LT Frank Tarantola	Force: Lt. Frank Tarantola used physical force against § 87(2)(b)	
E. An officer	Force: An officer used physical force against § 87(2)(b)	
F.LT Frank Tarantola	Abuse: Lt. Frank Tarantola threatened § 87(2)(b) with the use of force.	

## Synopsis

§ 87(2)(b) filed this complaint with the CCRB by phone on April 16, 2005. He stated that he had been arrested on April 14, 2005 and that as he was going to be loaded onto a prisoner van, he asked to be placed in two sets of handcuffs so a long-term injury to his left shoulder would not be exacerbated. His request was refused and he was rear-cuffed with a single set of handcuffs that were affixed to a chain connecting § 87(2)(b) to four other prisoners. One of the other prisoners, § 87(2)(b) was located during the investigation and made allegations of his own. § 87(2)(b) stated that PO Kevin Tierney and PO Steven Schmitt, both of the 108<sup>th</sup> Precinct, used profanity when addressing the other prisoners and him as they were being brought outside (Allegations A and B). As § 87(2)(b) and the other prisoners were being loaded into the prisoner van, § 87(2)(b)'s left arm was pulled towards the van by the chain, causing his shoulder to be in excruciating pain. § 87(2)(b) screamed out very loudly and asked to be released from the chain. As § 87(2)(b) screamed, Lt. Frank Tarantola of the 108<sup>th</sup> Precinct charged out of the station house, said, "Shut your fucking mouth!" to § 87(2)(b) and then said, "Get in the van. Sit the fuck down." (Allegation C) When § 87(2)(b) continued to scream in pain, Lt. Tarantola instructed a second officer to release § 87(2)(b) from the chain connecting him to the other prisoners. Lt. Tarantola then forced § 87(2)(b)'s injured arm behind his back with far more force than was necessary, putting him in excruciating pain (Allegation D). Officers then started to escort § 87(2)(b) into the station house. As § 87(2)(b) walked, an officer pushed him forward and he fell to the ground (Allegation E). Several officers then picked up § 87(2)(b) and carried him into the station house. As they did so, Lt. Tarantola threatened § 87(2)(b) with force, saying, "You say two words on the way into that precinct, I'm going to crack your fucking skull open for you," and then repeating a similar statement to him (Allegation F).

§ 87(2)(b) suffers from type one diabetes and stated that he had difficulties getting his insulin administered while in custody, § 87(2)(g)

§ 87(2)(g)

## Summary of Complaint

*Ambulance Call Report, § 87(2)(b) [Encl. 10a]*

§ 87(2)(b)'s Ambulance Call Report notes that § 87(2)(b) told the EMS workers who arrived at the 108<sup>th</sup> Precinct to treat him that that "everything hurts."

§ 87(2)(b) was interviewed at the CCRB on April 25, 2005. [Encl. 6a]

§ 87(2)(b) filed his CCRB complaint as soon as he woke up on Saturday, April 16<sup>th</sup>. At about 4:10PM on April 14, 2005, PO Wojciech Braszczok and PO Carolyn Lisoski, both of the 108<sup>th</sup> Precinct, came to § 87(2)(b)'s home and arrested him § 87(2)(a) 160.50. He told the officers that he was a diabetic and the officers told him not to worry about it. § 87(2)(b) said that his medication was in his refrigerator and PO Lisoski retrieved it and brought it to the station house.

When the officers went to put handcuffs on § 87(2)(b), § 87(2)(b) told them that his left shoulder was injured and he showed them a worker's compensation paper to that effect that he happened to see lying out on his table. [Encl. 6a] Both officers looked at it when he gave it to them and they told him that they understood and would not hurt his arm.

Since § 87(2)(b) cannot bend his left arm behind his back, he held his left arm straight against the left side of his body and he positioned his right arm so that his right forearm was extended all the way across his back. § 87(2)(b) told the officers that he was in pain if he moved his left arm but would be okay if he could keep the left arm against his side without moving it. The officers handcuffed § 87(2)(b) and brought him to the precinct without incident.

The officers removed § 87(2)(b)'s handcuffs and put him in a cell with four other men (though § 87(2)(b) said there were only three) whom he believed were there for traffic violations. At about 7:00PM, officers started to prepare the prisoners to be taken to Central Booking. The prisoners were chained together in a line while still in the holding pen area and § 87(2)(b) was the last in the line. PO Braszczok and PO Lisoski were in the holding area at the time. Another officer from the 108<sup>th</sup> Precinct, PO Steven Schmitt, was also there. § 87(2)(b) got PO Schmitt's name because PO Schmitt stayed with him throughout the night.

§ 87(2)(b) did not know the names of the other three prisoners but said that they looked to be either Hispanic or South Asian and that one of them had a heavy build. They did not speak much in the holding cell in the precinct. The other prisoners mentioned being in there because of traffic violations but that was about it.

In the holding area, all of the prisoners' feet were in leg shackles and they were each rear-cuffed in single sets of cuffs. A chain ran between each of the prisoners' handcuffs. § 87(2)(b) repeatedly told the officers that he was in pain from the moment that he was put in the handcuffs on the chain. He said that he just told whichever officer was closest to him and that he told PO Schmitt several times. PO Schmitt said several times that § 87(2)(b) should be handcuffed using two sets of cuffs because he had a pain in his shoulder, but this never happened and the prisoners were led out of the holding area. § 87(2)(b) was occasionally able to take hold of the chain with two fingers in order to put a small amount of slack in the chain and keep his left arm close to his side. As they walked, however, the chain repeatedly pulled § 87(2)(b)'s injured arm in a way that put him in enough pain to lose his breath. As he left the station house, § 87(2)(b) loudly said, "Please... let go," because he was in a lot of pain. At this point, several officers exited the station house as well, maybe six or seven of them in total. § 87(2)(b) remembered that PO Braszczok, PO Lisoski and PO Schmitt were with him at this point. He could not remember what the other officers looked like, but he believed that they were all white males. Lt. Frank Tarantola of the 108<sup>th</sup> Precinct was outside when § 87(2)(b) and the other prisoners were led out. After clearing people away from the front of the station house, Lt. Tarantola went back inside.

As the prisoners were about to be loaded into the van, either the first prisoner or the second prisoner in the line complained that he was in pain and asked to be cuffed with two linked sets of handcuffs because he could not sit down in the van in one set of handcuffs without crushing his hands. An officer undid his cuffs, put a second set of cuffs on him so that he had one on each hand, then cuffed the two sets of cuffs together. The prisoner continued to complain because he could not move into the van and sit down with his hands cuffed behind him and chained to the other prisoners. § 87(2)(b) did not think that there was enough slack in the chain between the prisoners to permit one prisoner to move into the van while the next in line waited on the ground to get in.

§ 87(2)(b) screamed in pain as he waited to get into the van because his injured arm was repeatedly being pulled and he was in terrible pain. After he did this, Lt. Tarantola "charged out of the precinct" and said, "Shut your fucking mouth," to § 87(2)(b). § 87(2)(b) said, "My arm is killing me, could you do the same for me as you did for him?" referring to the other prisoner who had been double-cuffed. PO Schmitt also asked Lt. Tarantola if he could double-cuff § 87(2)(b). Lt. Tarantola said, "No, just get him in the van." By this point, the pain in § 87(2)(b)'s arm had become excruciating and he was pleading with the officers to double cuff him. Lt. Tarantola also turned his attention to the other three prisoners and said, "Get in the van. Sit the fuck down!" A prisoner ahead of § 87(2)(b) was telling him that he couldn't because his hands were getting crushed but Lt. Tarantola "didn't want to hear it." § 87(2)(b) screamed in pain and said, "Please, I'm in pain!" Lt. Tarantola then instructed another officer to release § 87(2)(b)'s handcuffs and detach him from the other three prisoners. When they did so, § 87(2)(b) instinctively reached up and grabbed his injured left shoulder with his right hand and held it as hard as he could because of the pain. At

this point a white male officer had a hold of § 87(2)(b)'s right arm. It might have been PO Schmitt and it might have been one of the other officers. Lt. Tarantola took § 87(2)(b)'s left arm and shoved it hard behind his back very roughly.

§ 87(2)(b) immediately fell to his knees and Lt. Tarantola and the officer who was on § 87(2)(b)'s right lifted him back up. § 87(2)(b) was in a lot of pain, but he did not give them any trouble. He immediately tried to stand back up. Two officers then handcuffed § 87(2)(b) and started walking him towards the back of the van. § 87(2)(b) was not sure which two officers these were but he knew that Lt. Tarantola was walking alongside them to his left. Lt. Tarantola told the officers to "get him in the fucking precinct." Lt. Tarantola also told § 87(2)(b) to keep his mouth shut because § 87(2)(b) was "screaming [his] head off because of the pain." § 87(2)(b) said to him, "Please, just take these cuffs off of me and put an extra pair of cuffs on me." § 87(2)(b) took three or four steps towards the precinct. He was trying his best to walk but was going slowly on account of the leg shackles. At this point, right as he was about to step onto the sidewalk from the street, an officer who was behind § 87(2)(b) told him to stand still. § 87(2)(b) complied. Soon after that someone pushed § 87(2)(b) from behind and he landed face-down on the pavement. § 87(2)(b) explained that he was in excruciating pain at this point because his arm was in a terrible position. § 87(2)(b) did not see who pushed him. § 87(2)(b) thought that Officer Braszczok, PO Schmitt and Lt. Tarantola all had to have been in his immediate vicinity when he was pushed. He also believed that PO Lisoski and several more white male officers were there.

After being pushed, § 87(2)(b) fell into the street next to the sidewalk. He tried to get into a position that was easier on his arm but it was impossible to do so. Officers picked § 87(2)(b) up from the ground and he continued to scream because it felt "like they were tearing [his] arm out." At this point, when § 87(2)(b) was still on the ground, Lt. Tarantola said, "You say two words on the way into that precinct, I'm going to crack your fucking skull open for you." Lt. Tarantola then said, "Pick him up," to other officers who were standing by. Two to four officers, § 87(2)(b) couldn't remember how many, stood on either side of him, grabbed him, and lifted him completely off the ground. § 87(2)(b) was suspended face down above the ground by officers who were holding him by his pant legs and under his arms. The officers carried § 87(2)(b) from the street all the way into the precinct's holding cell while he was in this position.

In the vestibule of the precinct, Lt. Tarantola said, "I'm going to break your head for you if you say two words when we walk into the precinct," to § 87(2)(b) who was still behind held above the ground at this point.

The officers carried § 87(2)(b) inside the precinct, up the stairs, through the vestibule, through the hall and into the holding cell before dropping him on the ground inside the cell. A Hispanic male was in the cell at the time as well. § 87(2)(b) was left in handcuffs and leg shackles on the floor of the cell for about ten minutes. § 87(2)(b) could not see any officers during this time because he was lying face down and in pain but after about ten minutes an officer entered the cell and released the shackles and handcuffs.

§ 87(2)(b) was eventually taken to § 87(2)(b) in an ambulance. PO Schmitt accompanied him. He thought that he was going in order to get an insulin injection and on account of his arm, but he soon realized that he was in the psychiatric ward. He asked PO Schmitt where he was and the officer said, "You're not supposed to be here." PO Schmitt also said, "You don't belong here. If they had just double-cuffed you in the beginning, you wouldn't be having this problem." After staying at the hospital for a while and eventually receiving an insulin shot, § 87(2)(b) was brought to Central Booking. For more details about the conversation between § 87(2)(b) and PO Schmitt in the hospital, please refer to § 87(2)(b)'s CCRB interview transcript.

In Central Booking, § 87(2)(b) bumped into the three people who had originally been in the precinct holding cell with him. One of them asked § 87(2)(b) what happened and took down his name and number, but he never called § 87(2)(b). This guy said that he saw everything and that he would support § 87(2)(b)'s complaint. The other two men also said that they would support him if anyone contacted them. § 87(2)(b) asked the first man for his name, but the man said he wouldn't give it out in Central Booking. The first man spoke very good English and one of the other men spoke some English. The third man didn't speak English well at all.

### Results of Investigation

§ 87(2)(b) was interviewed in his home at § 87(2)(b) in Queens on July 8, 2005. [Encl. 14a-e]

§ 87(2)(b) was told that he was being interviewed because a man named § 87(2)(b) filed a complaint about his treatment while being held at the 108<sup>th</sup> Precinct on April 14, 2005. He recalled being in a holding cell with a man named § 87(2)(b) on that date, but he had not spoken with § 87(2)(b) since the incident and had never seen him beforehand.

§ 87(2)(b) said that he was arrested on April 14, 2005 § 87(2)(b). He was put in a holding cell at the 108<sup>th</sup> Precinct. At about 7:00PM, about three officers began the procedure of transporting the prisoners in the holding cell to Central Booking. § 87(2)(b) did not take notice of exactly who they were at first. There were five prisoners in the holding cell at the time. All of the prisoners were handcuffed to a single chain with the individual sets of cuffs set about eight inches apart. § 87(2)(b) was the second person in the line and § 87(2)(b) was the last person in the chain. They were all very uncomfortable and they started complaining about pain as soon as they were put in the handcuffs because the cuffs were tight and the way in which they were handcuffed to the chain made it difficult to walk because they were pointed in different directions. The prisoners were not put in leg shackles. Because of his discomfort, § 87(2)(b) took an increased interest in what was going on at this point. When asked if § 87(2)(b) made mention of a shoulder injury, § 87(2)(b) said, "Yes, § 87(2)(b) asked to be handcuffed in front of him or something." § 87(2)(b) was not sure how the officers responded to § 87(2)(b)'s request. He did not take note of § 87(2)(b)'s handcuff set-up. He did not believe that the officers put § 87(2)(b) in two sets of handcuffs but he could not be totally sure because he did not see § 87(2)(b)'s hands behind him.

§ 87(2)(b) thought that the officers weren't doing anything to help the prisoners so he took note of their names by reading their nameplates. One of them was a female officer named McKenna. The second officer was a white male officer named Schmitt and the third officer was a white male named "Tinnary or Tillary or something." PO Steven Schmitt and PO Kelly McKenna are both officers at the 108<sup>th</sup> Precinct. The third officer has been identified as PO Kevin Tierney of the 108<sup>th</sup> Precinct.

An officer in a white shirt, later identified as Lt. Frank Tarantola of the 108<sup>th</sup> Precinct, also came into the holding area to read out the prisoners' names. While he was there, § 87(2)(b) told him that he was going to file a complaint to the CCRB and something like, "I know my rights, you can't do this to me." § 87(2)(b) assumed that § 87(2)(b) was referring to the officers not taking care of his shoulder, but he was not sure. Lt. Tarantola then said something like, "Go to hell," and then said, "Fuck the CCRB." § 87(2)(b) also recalled that there were two 25 to 30 year-old white officers dressed in casual plainclothes in the holding area while the prisoners were being cuffed but that if he saw them, he would not recall who they were. They did not say anything that § 87(2)(b) recalled.

The prisoners continued to complain as they were led through the precinct, but nothing noteworthy happened. As they were led past the desk, § 87(2)(b) noted that Lt. Tarantola was sitting there. Once the prisoners got to the van, they could not get up on the seat to get in because they were bunched together very tightly on account of the chain.

§ 87(2)(b) explained that the first person in line and he were able to get in the van, but that the third man in the line must have weighed 300lbs and could not step into the van. At this point, § 87(2)(b) and the first person were in the van, but they could not sit down because the officers wanted them to get all the way into the back bench seat and there was not enough slack in the chain for them to do so. He said that at this point, "Everyone was screaming and yelling and I was complaining about my hand because it was getting numb. I was pleading with them to just bring it [the cuff] up over my wrist, but I was just continuously being cursed and yelled at." When asked to elaborate, he said that he asked PO Schmitt to move his cuff because PO Schmitt seemed like a "nice quiet guy," but that PO Schmitt just told him to "shut the fuck up." § 87(2)(b) asked PO Tierney to move his cuff as well, but PO Tierney told him to "'shut the fuck up' as well." § 87(2)(b) said that PO Tierney was constantly telling all of the prisoners to "shut the fuck up"

throughout the incident. When asked whether or not PO McKenna had used profanity towards him, § 87(2)(b) said, “She just said ‘you’re not going to die. I do this all the time. Stay where you are.’” This exchange started as the 300lb guy was stuck in the doorway and continued even after he got in the van.

After the 300lb guy got in the van, § 87(2)(b) saw § 87(2)(b) outside the van complaining about something. § 87(2)(b) was sitting on the back bench of the van between the middle and the right side seat. There were large windows all around the van. § 87(2)(b) was complaining about his shoulder even before the 300lb guy got into the van, but § 87(2)(b) complained more adamantly after the 300lb guy was in the van and the officers were trying to get him in. § 87(2)(b) believed that § 87(2)(b) repeatedly asked to be front-cuffed because his shoulder hurt him. § 87(2)(b) was getting loud at this point because the officers were tugging at him and trying to force him into the van. As § 87(2)(b) got louder, Lt. Tarantola came out of the station house. At the time, § 87(2)(b) was pleading, saying things like, “Please, I can’t go in. You can’t do this to me, Please!” Lt. Tarantola said, “Secure the prisoner!” Soon afterwards, there was a scuffle and § 87(2)(b) wound up on the ground. § 87(2)(b) thought that § 87(2)(b) was still attached to the chain at this point. Since § 87(2)(b) could only see § 87(2)(b) from the chest up through the window, he could not see what happened after § 87(2)(b) dropped below his view. § 87(2)(b) also noted that as § 87(2)(b) dropped, he was tugging the guy who was handcuffed next to him on the chain. § 87(2)(b) continued screaming and § 87(2)(b) believed that Lt. Tarantola was yelling profanities at him, though he could not specifically recall what the officer was saying.

After § 87(2)(b) lost sight of § 87(2)(b) he did not see him clearly again. He assumed that § 87(2)(b) was led back into the precinct, but he did not get a good view of it and was not sure how exactly this was carried out. The van remained parked at the precinct for about ten minutes after § 87(2)(b) dropped below § 87(2)(b) s view.

#### *Attempts to locate additional civilian witnesses [Encl. 44a-d]*

The prisoners in the holding cell with § 87(2)(b) were identified as § 87(2)(b), § 87(2)(b), § 87(2)(b) and § 87(2)(b). The investigator contacted all available phone numbers for the prisoners who were in the holding cell with § 87(2)(b). With the exception of § 87(2)(b) none of them could be reached. Please call letters were sent to all of the addresses listed on their arrest reports and their names were looked up online. The investigator called all of the phone numbers that were listed for each witness. The investigator also went on field visits to the homes of all witnesses in New York. § 87(2)(b) s address was in North Carolina and he did not respond to letters that were sent to his home. § 87(2)(b) s address was a boarded-up house. § 87(2)(b) s address proved to be correct, § 87(2)(b)

§ 87(2)(b) The remaining witnesses’ NYSID numbers were also entered into the Department of Corrections prisoner inquiry line from time to time but none of them were ever listed as being in custody.

#### **MOS Interviews**

*PO Steven Schmitt of the 108<sup>th</sup> Precinct was interviewed at the CCRB on July 6, 2005. [Encl. 16a-d]*

On April 14, 2005, PO Schmitt was assigned to transport prisoners with his partner, PO Kevin Tierney. PO Schmitt first encountered § 87(2)(b) in the 108<sup>th</sup> Precinct holding cell. PO Schmitt and PO Tierney had been assigned to transport § 87(2)(b) and the four other prisoners who were in the holding cell to Central Booking. Each prisoner was in a set of handcuffs that was permanently fixed to a chain. The sets of handcuffs were about three to four feet apart on the chain. The chain is a standard piece of equipment used when transporting prisoners. § 87(2)(b) was the last prisoner in the line of five prisoners.

§ 87(2)(b) complained of injuries to his left arm so the officers used two sets of handcuffs to handcuff him (“double cuffed him”) so he would not have to put his injured arm all the way behind his back. § 87(2)(b) s right hand was first attached a cuff that was affixed to the chain. A loose set of handcuffs was then cuffed to the other cuff that was attached to the chain. His left hand was then cuffed to the free cuff in the loose set of cuffs. This allowed § 87(2)(b) to keep his injured arm against the side of his body as opposed to having to bring it behind him. § 87(2)(b) seemed fine as he was being led out. The prisoners were not placed in leg shackles at any point. No prisoner aside from § 87(2)(b) had complained of pain.

After the prisoners were locked together, PO Tierney and PO Schmitt brought the prisoners in front of the desk. They told the desk officer that they were bringing the prisoners to Central Booking and then led the prisoners out to a van that was waiting in front of the station house. The prisoners began getting into the van without incident. At least three prisoners were already in the van when § 87(2)(b) started yelping in pain and screaming that his arm was hurting and that he couldn't sit down. PO Schmitt thought that the guy right in front of § 87(2)(b) was not able to sit down because § 87(2)(b) was pulling backwards. PO Schmitt said that § 87(2)(b)'s hand "wasn't being pulled... wrestled behind his back or anything... he was just complaining of pain." The chain might have been pulled taut by § 87(2)(b) as he pulled back, but it was not pulled by anyone other than § 87(2)(b) at this point. It appeared to PO Schmitt that § 87(2)(b) was doing just fine. The right cuff was in the middle of his back and his left cuff was on his side and if § 87(2)(b) had not been pulling back on the chain, there would have been enough slack to allow him to stand comfortably.

PO Schmitt said that none of the other prisoners had any trouble getting into the van or complained about pain at any point and that there was no hold-up at all until § 87(2)(b) cried out. When § 87(2)(b) started screaming, other officers came out of the station house. Before that point, only PO Schmitt and PO Tierney had been outside tending to the prisoners. Sgt. David Porter, Lt. Frank Tarantola and "one or two" other officers came out at this point. Sgt. Porter instructed PO Schmitt to release § 87(2)(b) from the cuffs because § 87(2)(b) was in pain. PO Schmitt released the cuff from § 87(2)(b)'s injured (left) arm first, then released his right cuff. Immediately after taking off § 87(2)(b)'s handcuffs, PO Schmitt put the fourth prisoner in the line into the van and then watched the four prisoners in the van to ensure that they did not cause trouble. PO Schmitt was standing on the passenger side of the van at its open side door while he was watching the four prisoners. § 87(2)(b) was still screaming about his arm and being in pain but PO Schmitt could not recall exactly what he was saying.

The front of the van was facing the front of the precinct. § 87(2)(b) wound up either behind the van or on the driver's side of the van but PO Schmitt did have any idea how he got there. At this point Lt. Tarantola, Sgt. Porter, PO Tierney and the other officers who had come out of the precinct were all tending to § 87(2)(b). PO Schmitt could not hear anything that the officers were saying to § 87(2)(b). § 87(2)(b) was restrained and brought back into the station house in some manner that PO Schmitt did not know. PO Schmitt had not knowledge whatsoever of whether or not § 87(2)(b) was resisting. He said that he heard § 87(2)(b) screaming in pain a couple of times but that that was no different from what he was doing right before the other officers had come out.

After § 87(2)(b) was brought back into the station house, PO Tierney and another officer whose identity PO Schmitt could not recall were instructed to take the four prisoners in the van to Central Booking. The desk officer ordered PO Schmitt to sit with § 87(2)(b) but PO Schmitt could not recall who the desk officer was at the time. § 87(2)(b) was classified as an EDP and EMS was called to transport him to § 87(2)(b). About five minutes after the other officers took hold of § 87(2)(b) outside, PO Schmitt went into the holding area and saw § 87(2)(b) with his right arm cuffed to one of the bars sitting in a seat outside of the cell. There were no other prisoners or officers in the holding area when PO Schmitt looked in. About 20 to 30 minutes after PO Schmitt looked in the holding area, EMS arrived to treat him. During this time, PO Schmitt was elsewhere in the station house. EMS took § 87(2)(b) to the psychiatric ward at § 87(2)(b). PO Schmitt accompanied him in the back of the ambulance.

PO Schmitt did not know who classified § 87(2)(b) as an EDP. He told EMS about the pain in § 87(2)(b)'s arm but probably not about § 87(2)(b)'s behavior. § 87(2)(b) was brought to the ambulance without incident. When the investigator asked PO Schmitt if he had ever said anything to the effect of, "You shouldn't be here or you're in the wrong place," after he had been brought to the psychiatric ward of the hospital (see below), he said, "I might have said something like that." PO Schmitt said that § 87(2)(b) probably shouldn't have been brought to the psychiatric ward because the problem was with his arm. As they were riding in the ambulance, § 87(2)(b) said that he was going to make a complaint about the incident. PO Schmitt gave § 87(2)(b) his name and shield number and told him that he was free to make a complaint against him. § 87(2)(b) said that he wasn't going to file against him, but against everyone else. § 87(2)(b) did not say specifically whom he was going to file a complaint against. PO Schmitt did not ask

§ 87(2)(b) at any time why he was upset and § 87(2)(b) did not say specifically why he was upset, only that he had been “mistreated.”

After arriving at the hospital, § 87(2)(b) was brought into the waiting area of the psychiatric ward of § 87(2)(b) and handcuffed to a chair. PO Schmitt sat with him. As they sat in the waiting area, PO Schmitt and § 87(2)(b) continued to talk. They were waiting in the hospital for several hours so they were chatting back and forth. § 87(2)(b) “turned out to be a nice guy once he calmed down.” PO Schmitt did say that § 87(2)(b)’s main problem was his arm, but he did not say anything to the effect of, “None of this would have happened if you had just been double-cuffed.” For a detailed account of PO Schmitt’s interaction with § 87(2)(b) at the hospital, see PO Schmitt’s CCRB interview transcript.

*PO Steven Schmitt was interviewed at the CCRB on September 19, 2005. [Encl. 17a-b]*

§ 87(2)(g)

PO Schmitt did not recall encountering a prisoner named § 87(2)(b) at the time that he was transporting § 87(2)(b). When told that § 87(2)(b) was the second prisoner in the line, PO Schmitt stated that he did not recall anything in particular about him. PO Schmitt did not recall any prisoner other than § 87(2)(b) complaining about tight handcuffs and did not recall any prisoner asking to have his handcuffs lifted over his wrists to alleviate discomfort. He did not say, “Shut the fuck up,” to any prisoner at any point throughout this encounter.

PO Schmitt did not recall there being an officer in a white shirt in the holding cell before the prisoners were being transferred. He did not recall any of the prisoners attempting to file a CCRB complaint at that time. He did recall any officer saying, “Go to hell,” “Fuck you,” or, “Fuck the CCRB,” in the holding area.

*PO Kevin Tierney of the 108<sup>th</sup> Precinct was interviewed on July 27, 2005. [Encl. 19a-c]*

PO Tierney vaguely remembered encountering § 87(2)(b) on April 14, 2005. He was outside of the 108<sup>th</sup> Precinct station house when he first encountered § 87(2)(b) and the other prisoners. The prisoners were linked together by handcuffs that were connected to a single chain. There were five prisoners in total and § 87(2)(b) was the last one in the line. PO Tierney did not recall which officers were bringing the prisoners out or how many officers were doing so. When PO Tierney was being asked about identifying the other officers, his representative interjected and said that he had only been at the 108<sup>th</sup> Precinct a month and a half at the time. PO Tierney thought that more than one and less than five officers brought the prisoners from the holding area to the prisoner van, but he could not say for sure how many there were. PO Tierney was asked where his partner, PO McKenna, was as the prisoners were being brought out and he said that he did not recall. PO Tierney remembered seeing PO Schmitt on the scene. He said that he vaguely knows PO Braszcok, but did not recall seeing him during the incident.

Four of the prisoners were loaded into the van without any disturbance whatsoever but § 87(2)(b) caused a problem. None of the four others complained at all about their treatment. § 87(2)(b) was released from the transport chain because officers thought that he was an EDP and should be brought to the hospital. When asked what § 87(2)(b) did to indicate that he was an EDP, PO Tierney said that he was screaming and wasn’t complying. PO Tierney said that § 87(2)(b) was saying “random things” but could not recall any of the actual statements that were made. PO Tierney did not unlock § 87(2)(b)’s handcuffs and was not sure who did. He said that § 87(2)(b) was being difficult and did not want to get into the van but he could not recall exactly what § 87(2)(b) was doing. PO Tierney also remembered that § 87(2)(b) complained of pain, but he could not remember specifically what § 87(2)(b) said was hurting. PO Tierney was not sure whether or not § 87(2)(b) was double-cuffed.

PO Tierney did not recall whether or not Sgt. Porter was on the scene. When told other people had said that Lt. Tarantola had come out of the precinct and interacted with the prisoners, PO Tierney said, “He was there that day, but I don’t recall if he was out there.” He was also unsure whether or not PO McKenna was on the scene when § 87(2)(b) was causing a problem.



PO Tierney said, "I didn't see it," when asked whether or not additional officers exited the precinct and assisted the officers loading prisoners into the van after § 87(2)(b) started "going nuts." When asked whether it was correct to say that Lt. Tarantola was on the scene at some point or another, PO Tierney said, "Yes," deviating from his earlier statement that he did not recall whether or not Lt. Tarantola had come outside. When asked if he heard Lt. Tarantola give any direct orders to anyone, PO Tierney said, "No." PO Tierney did not remember the extent of Lt. Tarantola's involvement in the incident.

PO Tierney knew that he was "watching the perps" in the van after § 87(2)(b) was released from his handcuffs but he could not recall where he was standing to do so. He said that the prisoners had been loaded in through the side door of the van and that they were seated in the van starting from the back row, but he was not sure how many were in each row or where he was standing. PO Tierney had no recollection of where § 87(2)(b) was after his handcuffs were removed and he was taken off the chain. He said that he didn't see officers putting him back in handcuffs and did not see how many officers were with § 87(2)(b).

PO Tierney believed that § 87(2)(b) was taken back into the precinct after the incident and that he was eventually brought to § 87(2)(b) but he was not sure. PO McKenna and PO Tierney then left the scene and brought the other four prisoners to Queens Central Booking. He did not recall how much time transpired between when § 87(2)(b)'s handcuffs were removed and when he and PO McKenna left the scene. He was also unsure whether § 87(2)(b) was inside or outside of the station house when they left.

Towards the end of the interview, the investigator asked PO Tierney whether he was in the holding area with any of the prisoners at any point. He said that he was not in the holding area with the prisoners but that he was waiting outside for another officer. He did not recall which officer he was waiting for. He saw the prisoners come out of the holding cell when he was inside the station house, but he could not recall where he was standing when he first saw them. He did not assist with bringing the prisoners from the holding cell to the van and could not recall whether he reached the van before or after the prisoners did.

PO Tierney did not recall whether or not any of the prisoners asked him to loosen their handcuffs or to handcuff them in a different way. He also did not recall Lt. Tarantola saying anything to § 87(2)(b) at all. He also did not recall speaking directly to any of the prisoners himself. He did not recall seeing any plainclothes officers get involved in the incident.

After PO Tierney made the statements in the above paragraph, the investigator asked PO Tierney if he told any of the prisoners to, "Shut the fuck up," during this incident. The investigator then said, "Were the other prisoners being loud at all, to the best of your recollection; were they saying anything?" PO Tierney said, "There was one – I don't remember what his name was, what he looked like – he was complaining about the cuffs and I just told him to be quiet. And, you know, he was disturbing the other perps." PO Tierney believed that the prisoner complained only once. PO Tierney was not sure how he responded to the prisoner, but he knew that he did not say, "Shut the fuck up," to him. PO Tierney was not sure whether the man calmed down or not after he spoke to him.

*Lt. Frank Tarantola of the 108<sup>th</sup> Precinct was interviewed at the CCRB on September 23, 2005. [Encl. 21a-d]*

On April 14, 2005, Lt. Tarantola was the 108<sup>th</sup> Precinct Platoon Commander from 2:45PM through 11:32PM. He was dressed in uniform at the time. Lt. Frank Tarantola was shown an arrest photograph of § 87(2)(b) from April 14, 2005 and said that he "vaguely recalled" the individual. § 87(2)(b) was in the prisoner holding area when Lt. Tarantola first saw him. Lt. Tarantola assigned multiple officers to escort the prisoners from the holding cell to Central Booking. § 87(2)(b) refused to comply with the officers who were trying to handcuff him, saying, "I don't want to go to Central Booking. I don't have to go. Why do I have to go?" One of the officers who was in the holding area with § 87(2)(b) explained that going to Central Booking is part of the process and that he had to go. Lt. Tarantola did not recall the identity of this officer. The officers attempted to handcuff § 87(2)(b) but § 87(2)(b) started to complain that he had an injury that prevented him from being rear handcuffed. He also stated that he could not go to court because he couldn't keep his hands behind his back.

Lt. Tarantola was sitting at the precinct's desk when he first noticed that § 87(2)(b) was causing a problem. From that vantage point he could observe the holding area through a five foot long by three foot high window and by watching a closed-circuit television monitor that was on the desk. When Lt. Tarantola saw that § 87(2)(b) was being uncooperative, he secured his firearm and entered the holding area. He stated that there were "either one or two" officers in the holding area when he entered. He asked § 87(2)(b) what the problem was. § 87(2)(b) told him that he had something wrong with his shoulders and that he couldn't keep his hands behind his back. At this point, Lt. Tarantola told § 87(2)(b) that he would use two sets of handcuffs linked together to handcuff him, enabling § 87(2)(b) to have more space between his hands. Lt. Tarantola pointed out to the investigator that he was not required to do this and that he went out of his way to double cuff § 87(2)(b) for his benefit. No other prisoners complained of pain and all of them aside from § 87(2)(b) were reasonably calm at this point. Lt. Tarantola believed that some or all of the prisoners were put on a chain that connected them together by sets of handcuffs while in the holding area. He mentioned that the prisoners would have been taken off of the chain before being put in the van because the prisoners could not sit in the van while being chained together. After § 87(2)(b) was handcuffed, Lt. Tarantola returned to the desk.

The prisoners were brought in front of the desk briefly and then brought outside to the waiting prisoner van. Lt. Tarantola remained in the station house at this time. A few minutes after the prisoners were brought outside, Lt. Tarantola heard a commotion and went out to the prisoner van to see what was going on. He recalled that § 87(2)(b) was screaming loudly on and off during the incident. About five officers were already near the prisoner van; two or three of them had previously been assigned to escort the prisoners. Lt. Tarantola stated during his interview that § 87(2)(b) was brought out to the prisoner van during a tour change, but after reviewing the command log with the investigator, he saw that § 87(2)(b) had been brought to the van at an unspecified time in the middle of the third tour. Lt. Tarantola did not recall the identities of any of the officers who were outside with the prisoners when he went out to see what the trouble with § 87(2)(b) was. The other prisoners were all already in the van when Lt. Tarantola got outside but § 87(2)(b) refused to enter. § 87(2)(b) was screaming wildly again, yelling, "I can't go to Central Booking. I don't want to go. Why do I have to go?" § 87(2)(b) then started complaining about his shoulder injury again. § 87(2)(b)'s behavior had become a security issue at this point because he was not cooperating with the officers and was creating an unsafe area in the vicinity of the other prisoners.

Lt. Tarantola explained that at this point the prisoners in the van would have been off of the chain that they had been attached to when they were brought outside because there was not enough slack to allow for everyone on the chain to remain attached together as they sat in the van.

At the point that Lt. Tarantola came outside the precinct, § 87(2)(b) was backing away from the van and pushing into the officers who were behind him and trying to get him in the van. He was still in the two sets of handcuffs that had been put on him in the holding area. Lt. Tarantola did not believe that § 87(2)(b)'s handcuffs were taken off at any point when he was outside the precinct and he did not believe that § 87(2)(b) was chained to the other prisoners at this point. He said that keeping five prisoners chained together in the van would not work. When asked if he was certain that he never ordered an officer to take § 87(2)(b)'s handcuffs off, Lt. Tarantola said that he did not think that he would ever give an order like that. § 87(2)(b) began moving his body wildly, broke away from the officers and moved out into the middle of the street. Upon seeing this, Lt. Tarantola immediately called for ESU. He told the investigator that this is proper protocol and that ESU would restrain § 87(2)(b) with straps, blankets and other non-lethal restraining devices. Lt. Tarantola also directed an officer whose identity he could not recall to obtain the 108<sup>th</sup> Precinct's non-lethal restraining devices from the station house.

Officers caught up to § 87(2)(b) in the street and took hold of him. When they did so, § 87(2)(b) collapsed onto the ground. He was probably on his side, but Lt. Tarantola could not recall. The officers then secured § 87(2)(b) in the restraining straps that had been obtained from the station house and brought § 87(2)(b) back inside. About five minutes had elapsed from the time that Lt. Tarantola had exited the precinct and saw § 87(2)(b) pushing against the officers. Lt. Tarantola cancelled his call for ESU assistance at this point. Lt. Tarantola was in the general area when the officers brought § 87(2)(b) into the station house but he was not right next to § 87(2)(b). He believed that restraining straps were placed on § 87(2)(b)'s wrists and he was unsure whether or not straps were used on his legs. Officers carried § 87(2)(b) inside by

holding onto his arms and legs and carrying him in. Lt. Tarantola said that he knew that § 87(2)(b) was not brought into the station house in a facedown position but he could not recall what position § 87(2)(b) was actually in when he was brought in.

Lt. Tarantola directed officers back to the van to secure it and they soon brought the other four prisoners to Central Booking. Lt. Tarantola either directed other officers to summon an ambulance for § 87(2)(b) or called himself. He did so because he deemed § 87(2)(b) to be psychologically unstable and he felt that § 87(2)(b) needed to be evaluated.

§ 87(2)(b) was taken into the arrest processing room but he was not put back into the holding pen itself. The officers sat § 87(2)(b) on a chair adjacent to the cell. Lt. Tarantola did not enter the arrest processing area after § 87(2)(b) was brought back in there from the outside and did not see him at any point after he was brought inside. EMS evaluated § 87(2)(b) in the holding area and then took him to § 87(2)(b). Lt. Tarantola did not confer with EMS about § 87(2)(b)'s condition. § 87(2)(b) did not have any injuries to Lt. Tarantola's knowledge and he did not make any complaints about any injuries other than the injury to his shoulder that he had suffered on a previous occasion.

To the best of Lt. Tarantola's knowledge, none of the prisoners aside from § 87(2)(b) made any complaint of pain or discomfort at any point. Lt. Tarantola did not touch § 87(2)(b) at any point whatsoever during the incident. To Lt. Tarantola's knowledge, § 87(2)(b) did not try to lodge a CCRB complaint at any point during the incident. Lt. Tarantola said that he did not speak discourteously or threaten violence during the incident.

*PO Kelly McKenna was interviewed at the CCRB on July 28, 2005. [Encl. 23a-c]*

PO McKenna was switched from domestic violence to prisoner transport at some point during her April 14, 2005 tour. She first saw the prisoners she was to transport when they were in the holding area of the precinct. PO McKenna was not in the holding area herself. There is a window between the holding area and the room with the desk in it and she was standing in front of the desk looking through the window. Two other officers removed the prisoners from the holding cell. When asked if she knew the identity of either of the officers, PO McKenna said that one of them was probably PO Tierney but that she wasn't sure. The told PO McKenna that PO Schmitt mentioned that he was back in the holding cell with the prisoners and PO McKenna said that yes, he was back there. PO McKenna also mentioned that it is possible that there were more than two officers in the holding area when the prisoners were being removed.

PO McKenna said, "PO Tierney and I assume Officer Schmitt took them out of the cell, put them on the daisy chains and searched the prisoners. I was waiting in front of the desk with their paperwork." The process of handcuffing the prisoners in the holding cell took about 15 minutes. After this, the two officers brought the prisoners to the desk, where PO McKenna was waiting. PO McKenna could not recall whether any of the prisoners were complaining or saying that they were experiencing discomfort at this point. After clearing the transport with the desk officer, PO McKenna, PO Tierney and PO Schmitt started loading the prisoners into the van. Three of them got in without incident and sat in the back row, but the last two had trouble getting in. PO McKenna explained that loading prisoners into a van is an awkward situation but said that things were going relatively smoothly up until § 87(2)(b)'s outburst. When asked if other prisoners were complaining about not being able to get into the van or about their handcuffs, PO McKenna said that they probably were. She could not recall whether or not she or the other officers responded to them.

At the point that § 87(2)(b) was almost in the van, he started kicking, screaming and acting out. He refused to sit down in the van and his movements caused the other prisoners to be pulled towards the door of the van. There was slack in the chain between § 87(2)(b) and the prisoner in front of him at this point so PO McKenna was not sure why he suddenly started acting up. PO McKenna said, "At that point, I uncuffed him in an attempt to put my single cuffs on him and bring him back into the station house." PO McKenna did this of her own volition and did not recall any officer helping her remove § 87(2)(b)'s handcuffs. She did not remember whether or not § 87(2)(b) had been double-cuffed on the daisy chain. She was not sure if § 87(2)(b) was saying anything at this point, but she did remember that he complained of pain to his shoulder as she tried to get him into her own set of handcuffs. PO McKenna was having trouble

handcuffing § 87(2)(b) because he was flailing his arms around. PO McKenna said, “Please put your hands behind your back. You’re going back into the station house.”

After § 87(2)(b) was off of his handcuffs, he went into the middle of the street. The van was facing the precinct when the incident occurred so when § 87(2)(b) did this, he was behind it. PO McKenna stayed alongside § 87(2)(b) and continued to try to cuff him as he went out into the street. She was grabbing his arms but he was still making it difficult to apply the handcuffs. Another officer came to PO McKenna’s assistance. She was not sure who it was but she knew that it was not PO Tierney or PO Schmitt because she had told them to stay at the van with the other four prisoners. PO McKenna was not sure where they were but thought that they probably stayed by the right-side door of the van, where the prisoners were being loaded in.

Lt. Tarantola came out of the precinct at some point, probably after § 87(2)(b) was off of the daisy chain. PO McKenna said that the officer who helped her handcuff § 87(2)(b) was probably not Lt. Tarantola and that she believed the officer who helped her was in a standard blue uniform. She believed that this officer joined her after she had already gotten one cuff on § 87(2)(b)’s wrist. It took about ten minutes to get § 87(2)(b)’s handcuffs back on. PO McKenna was not sure where Lt. Tarantola was standing during this period because her focus was on the prisoner. Lt. Tarantola told PO McKenna to bring the prisoner back into the station house but did not give her any further instructions. Before being brought back into the station house, § 87(2)(b) was lying down on his stomach in the street. He wound up in this position “because he threw himself in the street.” PO McKenna could not recall whether or not this happened before or after § 87(2)(b) was placed back in handcuffs.

PO McKenna and the officer who had assisted her brought § 87(2)(b) into the precinct. She did not believe that any other officers assisted them. § 87(2)(b) continued screaming as he was being brought back into the precinct and was hard to move because he was letting his legs go limp. PO McKenna and the other officer held § 87(2)(b) by the arms as they brought him in. PO McKenna couldn’t recall whether § 87(2)(b) was pitched forward as she brought him back into the station house, but she knew his head was above her waist. On the way back into the station house, § 87(2)(b) said that he was going to file a complaint about the incident. PO McKenna brought § 87(2)(b) straight back to the cell. After entering the precinct, she was with § 87(2)(b) for less than a minute before returning to the van and transporting the other prisoners.

PO McKenna did not recall § 87(2)(b) requesting to be double-cuffed at any point. None of the officers told any of the prisoners to “shut up” or “shut the fuck up” during the incident.

*Sgt. David Porter of the 108<sup>th</sup> Precinct was interviewed at the CCRB on July 29, 2005. [Encl. 25a-c]*  
Sgt. Porter was the 108<sup>th</sup> Precinct conditions sergeant on April 14, 2005. He worked 12:30PM through 8:30PM and was in plainclothes. He was performing administrative duties at the desk at the time of the incident.

Sgt. Porter recalled that there were prisoners in the holding cells who had been there during the day tour, but who were not ready for transport until about 6:30 or 7:00PM. Sgt. Porter did not interact with the prisoners in the cell — he saw them being brought from the cell to a marked 108<sup>th</sup> Precinct van that was waiting outside to take them to Central Booking. When Sgt. Porter first saw the prisoners being moved, they were already on the transport chain. At least three officers were assigned to carry out the transport, but Sgt. Porter did not remember who the officers were.

Sgt. Porter recalled that the officers led the prisoners out to the van without incident and that he did not hear any of the prisoners making complaints about the tightness of their handcuffs or about anything else as they went past the desk. Sgt. Porter did not accompany the prisoners outside and did not exit the station house at any point during the incident. Moments after the prisoners got outside, Sgt. Porter heard a commotion coming from in front of the precinct. He said that it sounded like someone was thrashing about. After that, he saw two officers reenter the precinct with one of the prisoners § 87(2)(b). At that point, Sgt. Porter heard § 87(2)(b) exclaim that his shoulders were hurting. Sgt. Porter saw that the prisoner was rear cuffed and that he was having trouble with being cuffed. Sgt. Porter said, “He was being

accommodated with a second set of cuffs so that his arms wouldn't be so tautly pulled to the rear." (Later on, the sergeant makes it clear that at the point that he was being brought into the precinct, § 87(2)(b) had only one set of handcuffs on.)

Sgt. Porter heard a ruckus emanating from the arrest processing room and went there to see if he could be of assistance. When he got there, he saw that Lt. Tarantola and two officers were already there. Sgt. Porter did not recall any officers coming into the room after he did. § 87(2)(b) was still agitated and Lt. Tarantola was handcuffing him with an additional set of cuffs (by putting one set on each wrist and cuffing the two sets together). This failed to calm § 87(2)(b) down and it became apparent that § 87(2)(b) was not suited to go to Central Booking at this time.

Lt. Tarantola had instructed an officer to call EMS in order to get § 87(2)(b) placed in a full body restraint bag. Sgt. Porter knew that there were restraint straps in the precinct's equipment locker so he went there, got the straps and returned to the arrest processing room. With the assistance of Lt. Tarantola, Sgt. Porter put the restraint straps on § 87(2)(b). The straps were applied because the cell in the arrest processing room is quite small and there was a significant chance that § 87(2)(b) would injure himself if he continued to thrash around without restraint. After § 87(2)(b) was in the straps, Sgt. Porter left the room and returned to other duties. He was not sure if Lt. Tarantola did so as well. At least two officers remained with § 87(2)(b) in the arrest processing room. Fairly soon after § 87(2)(b) was in the straps, EMS arrived at the scene and examined him. Sgt. Porter was not sure whether or not § 87(2)(b) calmed down after he was double cuffed and restrained with the straps. Sgt. Porter did not hear any officer say anything like "shut the fuck up" to § 87(2)(b) at any point.

*Arrest Report, § 87(2)(b) [Encl. 26a-c]*

§ 87(2)(b)'s OLBS worksheet indicates that he was arrested at 4:23PM on April 14, 2005 § 87(2)(a) 160.50  
§ 87(2)(b) PO Wojciech Braszczok was § 87(2)(b)'s arresting officer.

*PO Wojciech Braszczok of the 108<sup>th</sup> Precinct was interviewed at the CCRB on June 30, 2005. [Encl. 29a-b]*  
*PO Carolyn Lisoski of the 108<sup>th</sup> Precinct was interviewed at the CCRB on July 6, 2005. [Encl. 31a-b]*  
On April 14, 2005, PO Braszczok and PO Lisoski responded to a radio run and spoke with § 87(2)(b)'s mother, who said that she wanted to press charges against § 87(2)(b) because he had kicked her door and posted signs all over her hallway. § 87(2)(b) lives above his mother, so the officers went up there, explained to § 87(2)(b) why he was going to be arrested. § 87(2)(b) was calm and asked the officers to be careful when handcuffing him because his shoulder was injured. PO Braszczok and PO Lisoski used two sets of handcuffs to cuff § 87(2)(b) so § 87(2)(b) would have enough space to hold his injured arm comfortably at his side. § 87(2)(b) also mentioned that he was a diabetic and needed insulin medication, so the officers took his medication with them. The officers put § 87(2)(b) in the van and took him to the precinct without incident. PO Braszczok brought § 87(2)(b) before the desk and then put him in the holding cell. Both PO Braszczok and PO Lisoski stated that they had nothing to do with transporting § 87(2)(b) and were not aware of what happened to him when other officers attempted to transport him to Central Booking. PO Braszczok knew that EMS was summoned for § 87(2)(b) but he believed that the EMS workers were there to administer § 87(2)(b)'s diabetes medication.

## Documents

*Arrest Photograph of § 87(2)(b) (Arrest# § 87(2)(b) [Encl. 9a]*

There are no injuries to § 87(2)(b) evident in the photograph.

*Workers' Compensation Board Case Information Form [Encl. 13a-h]*

§ 87(2)(b) provided the investigator with a form from the New York State Workers' Compensation Board that states that § 87(2)(b)'s left shoulder was injured on § 87(2)(b)

§ 87(2)(b)

*Certified § 87(2)(b) Medical Records, § 87(2)(b) § 87(2)(b) [Encl. 34a-bbb]*

§ 87(2)(b)'s Ambulance Call Report notes that he suffered from a behavioral disorder and that his left arm was injured. § 87(2)(b) told EMS that he had had chronic sharp pain in his left shoulder for the previous six months. § 87(2)(b) did not exhibit outward signs of physical trauma.

§ 87(2)(b)'s § 87(2)(b) patient assessment form notes that he complained of being in pain all over his body and that at the start of the evaluation § 87(2)(b) was irritable but cooperative. § 87(2)(b) denied having a history of psychiatric care. His doctor noted that he had bruises on both sides of his head and on both hands. During his psychiatric evaluation, § 87(2)(b) told the doctor that he felt great and just wanted to leave the hospital. § 87(2)(b) was deemed to be of average intelligence and his memory was found to be intact. His judgment and impulse control were deemed to be questionable based on his history. Since § 87(2)(b) had no psychiatric history noted, these statements were presumably referring to the circumstances of his encounter with his mother. § 87(2)(b)'s preliminary treatment plan stated that he had no active psychiatric symptoms and that he should be discharged to the NYPD for arraignment. § 87(2)(b)'s records also indicated that insulin was administered to him at the hospital.

A second Ambulance Call Report was generated for § 87(2)(b) at § 87(2)(b) that night. The narrative section of the form noted that § 87(2)(b) had said that he “feels bad” and “feels real funny” but was not specific. It further noted that § 87(2)(b) was due to have his insulin administered at 10:00 but had not had it because prisoners are not allowed to administer their own medication in police custody. § 87(2)(b) arrived at § 87(2)(b) in the ambulance at § 87(2)(b). A second dose of insulin was administered to him at § 87(2)(b) and a third one was administered at § 87(2)(b). At § 87(2)(b), § 87(2)(b) was released to the NYPD a second time.

*108<sup>th</sup> Precinct Command Log, April 14, 2005 [Encl. 35a-f]*

The command log notes that § 87(2)(b), § 87(2)(b), § 87(2)(b), and § 87(2)(b) were all arrested and brought to the 108<sup>th</sup> Precinct, then transferred to Queens Central Booking at 7:15PM. § 87(2)(b)'s command log record indicates that he was brought back and forth to § 87(2)(b) several times. § 87(2)(b)'s appearance at the time of his arrest was recorded as being apparently normal.

*108<sup>th</sup> Precinct Tour 3 Roll Call, April 14, 2005 [Encl. 37a-g]*

Lt. Tarantola is listed being the impact lieutenant from 5:00PM through 1:35AM. PO McKenna is listed as being the domestic violence officer. PO Braszczok and PO Lisoski were both assigned to the critical response van, though it is noted that PO Lisoski was changed to a surge assignment and PO Braszczok had made an arrest. PO Schmitt and PO Tierney were both assigned to impact foot posts on the roll call.

*108<sup>th</sup> Precinct Prisoner Holding Pen Roster, April 14, 2005 [Encl. 38a]*

The information on the holding pen roster is consistent with that on the command log: § 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(b) and § 87(2)(b) were transferred to Central Booking at 7:15PM. § 87(2)(b) is listed as going to § 87(2)(b) at 8:00PM. Two additional prisoners, § 87(2)(b) and § 87(2)(b) were put in the holding cell at 7:00PM and remained there until 9:10PM.

*Phone call to § 87(2)(b) at the NYC Comptroller's Office [Encl. 44d]*

§ 87(2)(b) stated that as of January 6, 2006, § 87(2)(b) has not filed a notice of claim regarding this incident.

*Complainant's Criminal Conviction History [Encl. 42a-b]*

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

*Complainant's CCRB history [Encl. 6a]*

§ 87(2)(b) filed CCRB complaint number § 87(2)(b)

§ 87(2)(b)

*Subject officers' CCRB histories [Encl. 4a-c]*

PO Kevin Tierney has not had any CCRB allegations substantiated against him since his appointment to the NYPD on July 1, 2004. PO Steven Schmitt has not had any CCRB allegations substantiated against him since his appointment to the NYPD on July 1, 2004. Lt. Frank Tarantola has had one CCRB allegation substantiated against him since his appointment to the NYPD on August 30, 1993. A Command Discipline A was imposed on Lt. Tarantola as a result of a discourtesy – word allegation made in CCRB# 200307723. Lt. Tarantola was found to have said, “Move your fucking car,” to the complainant.

**Conclusions and Recommendations**

**Officer Identification**

All parties involved in the incident place PO Schmitt, PO Tierney and PO McKenna with the prisoners as they were being transported. § 87(2)(g)

§ 87(2)(b) is the only person involved in the incident who placed PO Braszczok and PO Lisoski near the prisoners as they were being transported. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) stated that an officer pushed him from behind as he was being brought into the station house (Allegation E). § 87(2)(g)

**Credibility Analysis**

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) said he was not leg shackled and the officers who were directly questioned about leg shackles all said that § 87(2)(b) was not shackled. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g)

First, § 87(2)(b) stated that § 87(2)(b) had tried to file a civilian complaint with Lt. Tarantola when the lieutenant first came into the holding cell, and that Lt. Tarantola had said something like, “Go to hell. Fuck the CCRB,” to him. § 87(2)(b) made no mention of this. Second, § 87(2)(b) said that he saw the three people who were in the holding cell with him in Central Booking – § 87(2)(b) denied seeing § 87(2)(b) in Central Booking. § 87(2)(b)

§ 87(2)(b)

According to PO Tierney, he was outside of the station house when he first encountered the prisoners – they were being led out on a linked chain at the time. PO Tierney initially said that the four prisoners in front of § 87(2)(b) all entered the prisoner van without incident, but then stated that he recalled that one of the other prisoners made one comment about his handcuffs and that he just told the prisoner to be quiet. PO Tierney could not recall whether or not this prisoner calmed down after he spoke with him. PO Tierney stated that he could not recall whether or not Lt. Tarantola and PO McKenna were outside when § 87(2)(b) first started causing a commotion, but he later added that Lt. Tarantola was outside at one point or another, though he did not give any direct orders to anyone.

PO Schmitt, however, recalled that he was in the holding area with PO Tierney and that he and PO Tierney were the officers charged with preparing the prisoners for transport. According to PO Schmitt, § 87(2)(b) was placed in two sets on handcuffs (one of them attached to the transport chain) in the holding area. PO Schmitt also said that he was the officer who took § 87(2)(b)'s handcuffs off outside of the precinct. He claimed that he did not know who put § 87(2)(b) back in handcuffs and brought him inside because he was watching the prisoners who were in the van.

§ 87(2)(b), § 87(2)(g)

According to PO McKenna, she and another officer took several minutes to wrestle § 87(2)(b) into her set of handcuffs and that § 87(2)(b) was in a prone position at one point because he “threw himself into the street.”

Lt. Tarantola told the investigator that he was in the holding area with § 87(2)(b) and the other prisoners and that he told § 87(2)(b) that he would be handcuffed with two sets of cuffs in order to keep him free of pain. None of the other officers made any mention of this. Lt. Tarantola also stated that the other prisoners were taken off of the long chain as they were put in the prisoner van and that it would have been impossible for them to sit comfortably in the van while still attached to each other by chain. § 87(2)(b), § 87(2)(g)

Several officers stated that when § 87(2)(b) pulled back on the chain, other prisoners were pulled towards the exit of the van and no other officer stated that any prisoner aside from § 87(2)(b) was taken off of the chain at any point. Lt. Tarantola also stated that he did not order § 87(2)(b) to be taken off of the transport chain at any point and that he believed that § 87(2)(b) was in handcuffs for the duration of the incident. § 87(2)(b), § 87(2)(g)



§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Lt. Tarantola stated that § 87(2)(b) was an EDP and needed psychiatric care and PO Tierney asserted that § 87(2)(b) was “going nuts” as he was being loaded into the prisoner van. § 87(2)(b), § 87(2)(g)

PO Braszczok and PO Lisoski both stated that § 87(2)(b) was calm and cooperative as he was being taken into the station house the first time and PO Schmitt stated that § 87(2)(b) was a “nice guy” and calmed down once he was being taken to the hospital. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation A: PO Kevin Tierney spoke obscenely and/or rudely to § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) made a point to read PO Tierney's and the other officers' nameplates when he began to feel that the officers were not helping the prisoners who were complaining about the handcuffs. § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

According to § 87(2)(b) he and other prisoners repeatedly told the officers that they were uncomfortable.

§ 87(2)(b), § 87(2)(g)

Patrol Guide Section 203-07 stated that Members of Service should "be courteous and respectful." [Encl. 1a] Though administrative courts have occasionally found that officers' use of profanity did not constitute misconduct (see PD v. Dukes, OATH Index 1137-29/00) [Encl. 2a-i], all of these cases have involved situations in which officers needed to gain immediate compliance from civilians in potentially dangerous situations. § 87(2)(b), § 87(2)(g)

Allegation B: PO Steven Schmitt spoke obscenely and/or rudely to § 87(2)(b)

As mentioned above, § 87(2)(b) stated that he took note of the identities of the three officers who were initially in the holding cell with him and that he asked each of them for assistance with his handcuffs.

§ 87(2)(b), § 87(2)(g)

Allegation C: Lt. Frank Tarantola spoke obscenely and/or rudely to § 87(2)(b)

Lt. Tarantola was accused of using profanity towards § 87(2)(b) on two separate occasions during this incident: First, § 87(2)(b) accused Lt. Tarantola of saying, "Go to hell," and, "Fuck the CCRB," to § 87(2)(b) during his initial encounter with § 87(2)(b) in the holding cell and, second, § 87(2)(b) accused Lt. Tarantola of saying, "Shut your fucking mouth," and, "Get in the van, sit the fuck down," as the lieutenant ran out of the station house. § 87(2)(b) also alleged that Lt. Tarantola said, "You say two words on the way into that precinct, I'm going to crack your fucking skull open for you," § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation D: Lt. Frank Tarantola used physical force against § 87(2)(b)

§ 87(2)(b) stated that Lt. Tarantola aggressively pulled his arm behind his back, putting him in excruciating pain, while handcuffing him near the prisoner van. The NYPD Patrol Guide section that outlines the use of force states that, “All members of the service at the scene of a police incident must use minimum necessary force.” [Encl. 3a-b] § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation E: An officer used physical force against Kevin** § 87(2)(b)

§ 87(2)(b) alleged that an officer pushed him from behind as he was being led back into the station house. Several officer stated that § 87(2)(b) was on the ground outside of the station house at some point, but none of them said that an officer pushed him down. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation F: Lt. Frank Tarantola threatened** § 87(2)(b) with the use of force.

§ 87(2)(b) alleged that Lt. Tarantola told him that, “You say two words on the way into that precinct, I’m going to crack your fucking skull open for you,” when he was outside being brought in and that Lt. Tarantola said, “I’m going to break your head for you if you say two words when we walk into the precinct.” § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Investigator: Date:

Supervisor: Date:

Reviewed by: Date:

Reviewed by: Date: